

C O P Y

*in opinion*

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January 2, 1957

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Kenneth L. Cowan, Director  
Division of Inheritance Taxes  
State Tax Commission  
Concord, New Hampshire

OCT 01 1998  
CONCORD, N.H.

Dear Sir:

Under date of December 27, 1956, you asked our opinion on the status under RSA 86 of a bequest to the adopted child of a lineal descendant of the decedent. We advise that such bequest is subject to the tax imposed by the statute cited.

We are aware of the effect of RSA 461:6 in conferring generally upon adopted children a status with respect to the adopting parents and their kindred similar to that enjoyed by natural children. Such similar status does not obtain, however, in the matter of the inheritance tax. For this special provision has been made. In the original enactment of the inheritance tax statute (Laws 1905, c. 40) there were declared to be exempt from the tax the ". . . husband, wife, lineal descendant . . . adopted child, the lineal descendant of any adopted child . . ." of the decedent. (s. 1). This language as to exemptions persisted through a number of revisions of section 1. In 1937, however, the section was amended to list the pertinent exempt classes as follows: "husband, wife, lineal descendant, or adopted child" of the decedent. (Laws 1937, c. 204, s. 1). Such is the language with respect to adopted persons in the statute in its present form. RSA 86:6.

In view of the special attention given adopted persons concerning the incidence of the inheritance tax, we hold that RSA 461:6 does not govern in that area, but that an adopted child is subject to or exempt from that tax only as provided in the inheritance tax statute itself.

In such case and in view of the precise language of RSA 86:6, we advise you that a bequest passing to the adopted child of a lineal descendant of the decedent is subject to the inheritance tax.

Very truly yours,

Warren E. Waters  
Deputy Attorney General

WEW/amj  
Encl.

File, Est. Harry L. Wood